

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ANTHONY LEE SALMON,

Plaintiff,

v.

Case No. 06-C-761

DAVID RITZOW and VALLEY
ORTHOPEDIC CLINIC,

Defendants.

ORDER

Plaintiff Anthony Salmon, currently incarcerated at the Kettle Moraine Correctional Institution, filed this malpractice action against Dr. David Ritzow and the Valley Orthopedic Clinic in Appleton. The complaint claims that in 2000, prior to plaintiff's incarceration, Ritzow and the clinic committed malpractice when Ritzow ineffectively performed surgery on plaintiff's leg. Plaintiff asserts that in 2005 foreign objects were found in his leg and that these foreign objects were the cause of his pain for several years.

Under 28 U.S.C. § 1915A, I must examine complaints filed by inmates to determine, at the outset, whether they state a viable cause of action. Here, I conclude that plaintiff's complaint must be dismissed for lack of jurisdiction. Federal courts are courts of limited jurisdiction, and may only hear cases: (1) involving federal law, or (2) between parties of different states, when the amount in controversy is more than \$75,000. *See* 28 U.S.C. § 1331, 1332. The only cause of action alleged is a state law claim for negligence against two in-state defendants, and thus does not meet either of these criteria.

Because this court lacks jurisdiction over the subject matter of this case, IT IS ORDERED that the complaint be DISMISSED. The motion to appoint counsel is also DENIED.

IT IS FURTHER ORDERED that plaintiff's request to proceed in forma pauperis is GRANTED. The Secretary of the Wisconsin Department of Corrections or his designee shall collect from the plaintiff's prison trust account the balance of the filing fee by collecting monthly payments from the plaintiff's prison trust account in an amount equal to twenty percent of the preceding month's income credited to the prisoner's trust account and forwarding payments to the clerk of the court each time the amount in the account exceeds \$10.00 in accordance with 28 U.S.C. § 1915(b)(2). The payments shall be clearly identified by the case name and number assigned to this action.

IT IS ALSO ORDERED that copies of this order be sent to the warden of the institution where the inmate is confined and to Corey Finkelmeyer, Assistant Attorney General, Wisconsin Department of Justice, P.O. Box 7857, Madison, Wisconsin, 53707-7857.

Dated this 3rd day of August, 2006.

s/ William C. Griesbach
William C. Griesbach
United States District Judge